HIGH COURT OF UTTARANCHAL AT NAINITAL
(Court's order whether the case is or not approved for reporting)
(Chapter VIII Rule 32 (2)(b)

Description of the case

WP No. 528/2004 (M/S)
Murti Shri Raghunath Ji Maharaj Virajman Mandir & another

Vs.

Additional District Judge / F.T.C. Vth Dehradun and others.

Approved for reporting.

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~~Not approved for reporting~~

Date of decision
02.012.2004

Initial of Judge

Reserved

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 528 OF 2004

1. Murti Shri Raghunath Je Maharaj Virajman Mandir Shri Raghunath Jee Maharaj, Triveni Ghat Rishikesh, through Manager of Temple Shri Raghunath Jee Maharaj, Charitable Society, Rishikesh, District Dehradun.
2. Mandir Shri Raghunath Jee Maharaj, Charitable Society, Triveni Ghat, Rishikesh, District Dehradun, through Secretary Shri Surya Prakash Singhal, son of Sri Brajbhushan Sharan, resident of Narayan Puri (Gill Colony), Saharanpur. ……Petitioners.

Versus

1. Additional District Judge/F.T.C.-Vth, Dehradun.
2. State of Uttaranchal, through Collector, Dehradun.
3. Senior Superintendent of Police, Dehradun.
4. Station Officer, Police Station-Rishikesh, District Dehradun.
5. Chandra Prakash, son of Shri Suraj Prakash, resident of Marwari Bhojnalaya Ghat Road, Rishikesh, District Dehradun.
6. Ram Kumar, son of Sri Suraj Bhan, resident of Rishikesh Udyog Vyapar Mandal, Uttaranchal, Rishikesh, Disrtict Dehradun. ……..Respondents.

02.12.2004

Hon'ble Rajesh Tandon, J.

Heard Sri Arvind Vashisth, counsel for the petitioner and Standing counsel for the respondents.

By the present writ petition, the petitioners have prayed for a writ of certiorari quashing the order dated 25.05.2004 passed by the Additional District Judge/F.T.C.-Vth, Dehradun in Misc. Appeal No. 28 of 2004 (Raj Kumar Vs. Murti Sri Raghunathjee Maharaj and others)

Briefly stated, the facts giving rise to the present writ petition are that the petitioners filed a Suit in the court of Civil Judge (Sr. Div.), Dehradun against the defendant for permanent injunction restraining the defendant not to interfere in possession of the plaintiff over the property in suit.

The plaintiff alleged that it is a charitable society and looks-after the property of Murti Sri Raghunathjee Maharaj. The temple of Sri Raghunathjee Maharaj is 200 years old. The property of the temple consists of Dharam Shala and Charitable Hospital and a piece of land measuring 1,200 sq.metre yard and houses etc. In order to arrange free stay of devotees, the management took a decision to construct four rooms at the first floor Ghat Road. For this purpose, a map was prepared and presented for sanction before the municipal authorities. The plaintiff alleged that respondent no. 5 with the help of respondent no. 2 to 4 stopped the construction of the rooms while work was going on for putting a linter.

The plaintiff ahs further alleged that respondent no. 5 has annoyance with the management of the Society as his father, who is now 80 years of age was Pujari in the temple, he was replaced by another Pujari, which infuriated him and respondent no. 6.

The petitioner has submitted that in order to caused undue damage to the plaintiffs/petitioners the respondent no. 5 in active connivance with respondent no. 2 to 4 stopped construction of the room and under these circumstances plaintiffs/petitioners were constrained to institute a suit in the Court of Civil Judge (Sr. Div.), Dehradun with a prayer of perpetual injunction restraining Defendants (Respondent NO. 2 to 5) from interfering in the management of property of the

temple and from raising any new construction. The suit was numbered as O.S. NO. 54/2004.

On 29.01.2004, the Civil Judge (Senior Division) Dehradun has considered the urgency of the situation, and has passed an order dispensing the notices under Section 80 C.P.C to the defendants.

It is alleged that on an application for interim injunction, the court issued notices to the defendant and fixed 06.02.2004.

On 09.03.2004, the court below has allowed the application for interim injunction ex-parte and restrained the defendants accordingly.

The respondent no. 6 has moved an application under Order 1 Rule 10 of C.P.C. on 24.03.2004, which is still pending for disposal.

During the pendency of the application under Order 1 Rule 10 C.P.C., respondent no. 6 has presented the aforesaid appeal before the respondent no. 1.

Aggrieved by the order dated 09.03.2004, the respondent no. 6 has preferred and appeal being Misc. Appeal No. 26 of 2004. While admitting the appeal, the appellate court has directed the parties to maintain status quo.

Counsel for the petitioner has stated that respondent no. 6 has failed to disclose his grievance, hence he has no locus standi to present the appeal.

A Perusal of the order dated 25.05.2004 passed by the appellate court shows that the petitioners were permitted to remove shuttering from the linter in order to avoid any loss to them. The appellate court also directed the trial court to pass appropriate order on the application of the defendant under Order 1 Rule 10 C.P.C.

I find no reason to interfere with the order passed by the appellate court. However, the trial court is directed to decide the suit within a period of three months. For a period of three months alone parties are directed to maintain status quo.

Any observation made above will not affect either the decision of the case before the trial court or the decision on the application under Order 1 Rule 10 C.P.C. on merits.

Subject to the aforesaid observation, writ petition is disposed of. No order as to costs.

02.12.2004 (RAJESH TANDON, J.)

*Dhyani